



General Assembly

January Session, 2005

Raised Bill No. 6579

LCO No. 2893

02893_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING CRIME VICTIMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46b-122 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 All matters which are juvenile matters, as provided in section 46b-
4 121, shall be kept separate and apart from all other business of the
5 Superior Court as far as is practicable, except matters transferred
6 under the provisions of section 46b-127, which matters shall be
7 transferred to the regular criminal docket of the Superior Court. Any
8 judge hearing a juvenile matter may, during such hearing, exclude
9 from the room in which such hearing is held any person whose
10 presence is, in the court's opinion, not necessary, except that in
11 delinquency proceedings, any victim [of the delinquent act, the parents
12 or guardian of such victim and any victim advocate appointed
13 pursuant to section 54-221] shall not be excluded unless, after hearing
14 from the parties and the victim and for good cause shown, which shall
15 be clearly and specifically stated on the record, the judge [specifically]
16 orders otherwise. For the purposes of this section, "victim" means a
17 person who is the victim of a delinquent act, a parent or guardian of

18 such person, the legal representative of such person or an advocate
19 appointed for such person pursuant to section 54-221.

20 Sec. 2. Subsection (a) of section 51-5c of the general statutes is
21 repealed and the following is substituted in lieu thereof (*Effective*
22 *October 1, 2005*):

23 (a) The Chief Court Administrator shall establish and maintain an
24 automated registry of protective orders that shall contain (1) protective
25 or restraining orders issued by courts of this state, including, but not
26 limited to, orders issued pursuant to section 10 of this act and sections
27 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q and 54-82r, and (2) foreign
28 orders of protection that have been registered in this state pursuant to
29 section 46b-15a. The registry shall clearly indicate the date of
30 commencement, the termination date, if specified, and the duration of
31 any order contained therein. The Chief Court Administrator shall
32 adopt policies and procedures for the operation of the registry.

33 Sec. 3. Section 53a-107 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2005*):

35 (a) A person is guilty of criminal trespass in the first degree when:
36 (1) Knowing that such person is not licensed or privileged to do so,
37 such person enters or remains in a building or any other premises after
38 an order to leave or not to enter personally communicated to such
39 person by the owner of the premises or other authorized person; or (2)
40 such person enters or remains in a building or any other premises in
41 violation of a restraining order issued pursuant to section 46b-15 or a
42 protective order issued pursuant to section 10 of this act or section 46b-
43 38c, 54-1k or 54-82r by the Superior Court; or (3) such person enters or
44 remains in a building or any other premises in violation of a foreign
45 order of protection, as defined in section 46b-15a, that has been issued
46 against such person, after notice and an opportunity to be heard has
47 been provided to such person, in a case involving the use, attempted
48 use or threatened use of physical force against another person.

49 (b) Criminal trespass in the first degree is a class A misdemeanor.

50 Sec. 4. Section 53a-223 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective October 1, 2005*):

52 (a) A person is guilty of criminal violation of a protective order
53 when an order issued pursuant to section 10 of this act, subsection (e)
54 of section 46b-38c, or section 54-1k or 54-82r has been issued against
55 such person, and such person violates such order.

56 (b) Criminal violation of a protective order is a class D felony.

57 Sec. 5. Section 54-76h of the general statutes is repealed and the
58 following is substituted in lieu thereof (*Effective October 1, 2005*):

59 (a) All of the proceedings, except proceedings on the motion under
60 section 54-76c, had under the provisions of sections 54-76b to 54-76n,
61 inclusive, shall be private and shall be conducted in such parts of the
62 courthouse or the building wherein court is located as shall be separate
63 and apart from the other parts of the court which are then being held
64 for proceedings pertaining to adults charged with crimes. If [such] the
65 defendant is committed while [such] the examination and
66 investigation under said sections is pending, before trial, during trial
67 or after judgment and before sentence, those persons in charge of the
68 place of detention shall segregate [such] the defendant, to the extent of
69 their facilities, from defendants over the age of eighteen years charged
70 with crime.

71 (b) In a proceeding under sections 54-76b to 54-76n, inclusive, the
72 court shall not exclude any victim from such proceeding or any
73 portion thereof unless, after hearing from the parties and the victim
74 and for good cause shown, which shall be clearly and specifically
75 stated on the record, the court orders otherwise. For the purposes of
76 this subsection, "victim" means a person who is the victim of a crime
77 for which a youth is charged, a parent or guardian of such person, the
78 legal representative of such person or an advocate appointed for such

79 person pursuant to section 54-221.

80 Sec. 6. Section 54-91c of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective October 1, 2005*):

82 [(a) For the purposes of this section, "victim" means a person who is
83 a victim of a crime, the legal representative of such person, a member
84 of a deceased victim's immediate family or a person designated by a
85 deceased victim in accordance with section 1-56r.]

86 [(b)] (a) Prior to the imposition of sentence upon any defendant who
87 has been found guilty of any crime or has pleaded guilty or nolo
88 contendere to any crime, and prior to the acceptance by the court of a
89 plea of guilty or nolo contendere made pursuant to a plea agreement
90 with the state wherein the defendant pleads to a lesser offense than the
91 offense with which such defendant was originally charged, the court
92 shall permit any victim of the crime to appear before the court for the
93 purpose of making a statement for the record, which statement may
94 include the crime victim's opinion of any plea agreement. In lieu of
95 such appearance, the crime victim may submit a written statement [or,
96 if the victim of the crime is deceased, the legal representative or a
97 member of the immediate family of such deceased victim may submit
98 a statement of such deceased victim] to the state's attorney, assistant
99 state's attorney or deputy assistant state's attorney in charge of the
100 case. Such state's attorney, assistant state's attorney or deputy assistant
101 state's attorney shall file the statement with the [sentencing] court and
102 the statement shall be made a part of the record. [at the sentencing
103 hearing.] Any such statement, whether oral or written, shall relate to
104 the facts of the case, the appropriateness of any penalty and the extent
105 of any injuries, financial losses and loss of earnings directly resulting
106 from the crime for which the defendant is being sentenced. The court
107 shall inquire on the record whether any crime victim is present for the
108 purpose of making an oral statement or has submitted a written
109 statement. If no crime victim is present and no such written statement
110 has been submitted, the court shall inquire on the record whether an

111 attempt has been made to notify any such crime victim as provided in
112 subsection [(c)] (b) of this section and whether the provisions of said
113 subsection have been complied with. If the court finds that the
114 provisions of subsection (b) of this section have not been complied
115 with, the court shall continue the proceeding to provide an
116 opportunity for the state's attorney, assistant state's attorney or deputy
117 assistant state's attorney to comply with the provisions of said
118 subsection. After consideration of any such statements, the court may
119 refuse to accept, where appropriate, a negotiated plea or sentence, and
120 the court shall give the defendant an opportunity to enter a new plea
121 and to elect trial by jury or by the court.

122 [(c)] (b) Prior to the imposition of sentence upon such defendant and
123 prior to the acceptance of a plea pursuant to a plea agreement, the
124 state's attorney, assistant state's attorney or deputy assistant state's
125 attorney in charge of the case shall [advise the] notify any victim of
126 such crime in writing, by certified mail, on a form prescribed by the
127 Office of the Chief Court Administrator, of the date, time and place of
128 the [original] sentencing hearing or any judicial proceeding concerning
129 the acceptance of a plea pursuant to a plea agreement and of the crime
130 victim's right to appear before the court for the purpose of making a
131 statement or to submit a written statement for the record, as provided
132 in subsection (a) of this section, provided the crime victim has
133 informed such state's attorney, assistant state's attorney or deputy
134 assistant state's attorney that such crime victim wishes to make or
135 submit a statement as provided in subsection [(b)] (a) of this section
136 and has [complied with a request from such state's attorney, assistant
137 state's attorney or deputy assistant state's attorney to submit a
138 stamped, self-addressed postcard for the purpose of such notification.
139 If the state's attorney, assistant state's attorney or deputy assistant
140 state's attorney is unable to notify the victim, such state's attorney,
141 assistant state's attorney or deputy state's attorney shall sign a
142 statement as to such notification] provided such state's attorney,
143 assistant state's attorney or deputy assistant state's attorney with a
144 current address. A copy of such notification and the return receipt

145 therefor shall be placed in the court files.

146 [(d)] (c) Upon the request of a crime victim, prior to the acceptance
147 by the court of a plea of a defendant pursuant to a proposed plea
148 agreement, the state's attorney, assistant state's attorney or deputy
149 assistant state's attorney in charge of the case shall provide such crime
150 victim with the terms of such proposed plea agreement in writing.

151 [(e) The provisions of this section shall not apply to any proceedings
152 held in accordance with section 46b-121 or section 54-76h.]

153 Sec. 7. Section 54-201 of the general statutes is repealed and the
154 following is substituted in lieu thereof (*Effective October 1, 2005*):

155 As used in this chapter, unless the context otherwise requires:

156 (1) "Victim" means a person who is injured or killed as provided in
157 section 54-209;

158 (2) "Personal injury" means (A) actual bodily harm and mental
159 anguish which is the direct result of bodily injury and includes
160 pregnancy and any condition thereof, or (B) injury to a guide dog or
161 assistance dog owned or kept by a blind or disabled person;

162 (3) "Dependent" means any relative of a deceased victim or a person
163 designated by a deceased victim in accordance with section 1-56r who
164 was wholly or partially dependent upon his income at the time of his
165 death or the child of a deceased victim and shall include the child of
166 such victim born after his death;

167 (4) "Relative of any person" means the spouse, parent, grandparent,
168 stepparent, child, including natural born, step and adopted,
169 grandchild, brother, sister, half brother, half sister or spouse's parents;
170 and

171 (5) "Crime" means any act which is a felony, as defined in section
172 53a-25, or misdemeanor, as defined in section 53a-26, and includes any

173 crime committed by a juvenile.

174 Sec. 8. Subsection (a) of section 54-222a of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective*
176 *October 1, 2005*):

177 (a) Whenever a peace officer determines that a crime has been
178 committed, such officer shall: [render] (1) Render immediate assistance
179 to any crime victim, [of such crime] including obtaining medical
180 assistance for any such crime victim if such assistance is required; [,
181 shall] (2) present a card prepared by the Office of the Chief Court
182 Administrator to [a] the crime victim [who has suffered physical
183 injury] informing the crime victim of services available and the rights
184 of crime victims in this state; and [shall] (3) refer the crime victim to
185 the Office of Victim Services for additional information on rights and
186 services. A peace officer shall not be liable for failing to present an
187 informational card to any crime victim as provided in subdivision (2)
188 of this subsection or for failing to refer any crime victim to the Office of
189 Victim Services as provided in subdivision (3) of this subsection. For
190 the purposes of this subsection, "crime victim" shall have the same
191 meaning as provided in section 1-1k.

192 Sec. 9. (NEW) (*Effective October 1, 2005*) In a proceeding under
193 sections 54-76b to 54-76n, inclusive, of the general statutes concerning
194 the acceptance of a plea pursuant to a plea agreement entered into by a
195 youth or the imposition of sentence upon such youth, the court shall
196 permit any victim of the crime for which such youth is charged to
197 submit a written statement for the record, or to appear before the court
198 and make a statement for the record, regarding such plea agreement or
199 sentence.

200 Sec. 10. (NEW) (*Effective October 1, 2005*) (a) When any arrested
201 person, except a person charged with the commission of a family
202 violence crime, as defined in section 46b-38a of the general statutes, is
203 presented before the Superior Court, upon the request of the state's
204 attorney, assistant state's attorney or deputy assistant state's attorney

205 or any victim of the crime for which the arrested person is charged, the
206 court shall consider the issuance of a protective order, on a form
207 prescribed by the Office of the Chief Court Administrator, against the
208 arrested person. In determining whether to issue such protective order,
209 the court may consider the following factors: (1) The nature and
210 circumstances of the offense, (2) the arrested person's record of
211 previous convictions for violating protective orders or restraining
212 orders, (3) the number and seriousness of charges pending against the
213 arrested person, (4) the arrested person's history of violence, (5) any
214 statements provided by the crime victim, and (6) the likelihood, based
215 upon the expressed intention of the arrested person, that the arrested
216 person will commit another crime during the pendency of the criminal
217 proceeding.

218 (b) A protective order issued under this section may include
219 provisions necessary to protect the crime victim from threats,
220 harassment, injury or intimidation by the arrested person, including,
221 but not limited to, an order enjoining the arrested person from (1)
222 imposing any restraint upon the person or liberty of the crime victim,
223 (2) threatening, harassing, assaulting, molesting or sexually assaulting
224 the crime victim, or (3) entering the dwelling or place of employment
225 of the crime victim. Such order shall be made a condition of the bail or
226 release of the arrested person and shall contain the following language:
227 "In accordance with section 53a-223, any violation of this order
228 constitutes criminal violation of a protective order which is punishable
229 by a term of imprisonment of not more than five years, a fine of not
230 more than five thousand dollars, or both. Additionally, in accordance
231 with section 53a-107, entering or remaining in a building or any other
232 premises in violation of this order constitutes criminal trespass in the
233 first degree which is punishable by a term of imprisonment of not
234 more than one year, a fine of not more than two thousand dollars, or
235 both. Violation of this order also violates a condition of your bail or
236 release, and may result in raising the amount of bail or revoking
237 release." Every order of the court made in accordance with this section
238 after notice and hearing shall also contain the following language:

239 "This court had jurisdiction over the parties and the subject matter
 240 when it issued this protection order. Respondent was afforded both
 241 notice and opportunity to be heard in the hearing that gave rise to this
 242 order. This order shall remain in effect until modified or vacated by the
 243 court." The information contained in and concerning the issuance of
 244 any protective order issued under this section shall be entered in the
 245 registry of protective orders pursuant to section 51-5c of the general
 246 statutes, as amended by this act.

247 (c) A protective order issued under this section shall be an order of
 248 the court, and the clerk of the court shall cause (1) a certified copy of
 249 such order to be sent to the crime victim, and (2) a copy of such order,
 250 or the information contained in such order, to be sent by facsimile or
 251 other means within forty-eight hours of its issuance to the law
 252 enforcement agency for the town in which the crime victim resides
 253 and, if the arrested person resides in a town different than the town in
 254 which the crime victim resides, to the law enforcement agency for the
 255 town in which the arrested person resides. If the crime victim is
 256 employed in a town different than the town in which the crime victim
 257 resides, the clerk of the court shall, upon the request of the crime
 258 victim, send, by facsimile or other means, a copy of such order, or the
 259 information contained in such order, to the law enforcement agency
 260 for the town in which the crime victim is employed within forty-eight
 261 hours of the issuance of such order.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	46b-122
Sec. 2	<i>October 1, 2005</i>	51-5c(a)
Sec. 3	<i>October 1, 2005</i>	53a-107
Sec. 4	<i>October 1, 2005</i>	53a-223
Sec. 5	<i>October 1, 2005</i>	54-76h
Sec. 6	<i>October 1, 2005</i>	54-91c
Sec. 7	<i>October 1, 2005</i>	54-201
Sec. 8	<i>October 1, 2005</i>	54-222a(a)

Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	New section

Statement of Purpose:

To ensure that a victim is not excluded from a delinquency or youthful offender proceeding unless, after hearing from the victim and for good cause shown, the reason for exclusion is clearly and specifically stated on the record, to protect the right afforded to a crime victim to be heard by the court prior to the acceptance of a plea agreement and prior to sentencing, to require a police officer to present an informational card concerning victim services and rights to any crime victim at the scene of a crime, to ensure that when a defendant is adjudged to be a youthful offender, the crime victim has the opportunity to address the court regarding any plea agreement and prior to sentencing, and to allow the court to issue a protective order in a criminal case not involving a familial relationship between the accused and the crime victim where the court determines that such order is necessary and appropriate for the protection of the crime victim.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]